UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In Re:	)	Case No. 14-44564-705
	)	Honorable Charles E. Rendlen, III
GARY AND SHERRY SALANT,	)	Chapter 7
	)	
Debtors.	)	
	)	
SETH A. ALBIN, TRUSTEE,	)	
	)	Adversary Case No. 17-04075
Plaintiff,	)	
	)	
v.	)	
	)	
GARY D. SALANT,	)	
SHERRY A. SALANT,	)	
LINDSEY SALANT,	)	
LAUREN SALANT,	)	
JOHN NOUHON,	)	
DOLLIE SALANT,	)	
UNITED STATES OF AMERICA	)	
	)	
Defendants.	)	

MOTION TO WITHDRAW THE REFERENCE TO DISTRICT COURT

COMES NOW Seth A. Albin, the Chapter 7 Trustee in bankruptcy for the estate of Gary and Sherry Salant and Plaintiff herein, by and through counsel, and states as to the Court as follows:

1. Gary and Sherry Salant (collectively, the "Debtors") filed their voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq. (the "Code") on June 4, 2014 (the "Petition Date"). Debtors' case was converted to one under Chapter 7 of the Code on December 14, 2015 (the "Conversion Date"), and Seth A. Albin ("Trustee") was appointed as the Chapter 7 Trustee in Debtors' bankruptcy case on December 15, 2015.

2. Thereafter, on or about May 19, 2017, Trustee filed his Adversary Complaint commencing the above-captioned adversary proceeding (the "Adversary") against aforenamed

defendants. The Adversary Complaint contains four counts seeking a judicial declaration of rights as to certain enumerated property and turnover to the extent such property is found to be property of the bankruptcy estate.

3. Prior to the Petition Date, on June 21, 2013, Gary Salant ("GS") was sentenced in conjunction with a conviction for bank fraud. The matter was heard in the United States District Court for the Eastern District of Missouri before the Honorable Rodney W. Sippel ("Judge Sippel") and was docketed as Case No. 4:12-cr-00246-RWS-1.

4. As part of GS's sentence, he was ordered to pay restitution in the amount of $20,000.00, a fine of $10,000.00 and monthly criminal penalty payments, and was required to make certain financial disclosures to the U.S. Probation office. To the best knowledge of the Trustee, the various fines and restitution were paid, in full, by GS from sources unknown to the Trustee.

5. On November 9, 2016, upon suspicion of parole violations related to the financial disclosures, officers from the U.S. Probation Office, conducted a search of Debtors' residence. During the search of the residence, officers from the U.S. Probation office discovered substantial assets that GS had not previously disclosed and seized those assets described on Exhibit "A" to the Adversary Complaint under the heading "1. Confiscated by Probation Officer" (the "Seized Assets"). The Seized Assets included, without limitation, almost $200,000 of cash. When questioned about the Seized Assets, GS most of the items of value belonged to a third party.

6. Subsequently, on March 3, 2017, Trustee performed his own inspection of the contents of the residence and discovered additional currency, artwork, collectibles, household goods and other personal property with value, which are described in headings 2 through 14 on Exhibit "A" to the Adversary Complaint (the "Remaining Assets").

7. When questioned by the Trustee about the Remaining Assets, GS indicated that most, if not all, of the assets with value were not property of the bankruptcy estate, because the items, particularly the coins and other antique or collectible items, were owned by others.

8. As a result of its investigation, the U.S. Probation office filed its First Amended Petition for Warrant or Summons for Offender Under Supervision against Debtor Husband (the "First Amended Petition"), alleging multiple probation violations.

9. The Probation Revocation Hearing was held on May 24 and 25 of 2017. Prior to this hearing, the Trustee filed his *Motion Asserting an Interest in Assets Held by the United States Government and for Other Relief* notifying Judge Sippel of the Trustee's interest in the Seized Assets and requesting that the Seized Assets not be released until their ownership was determined.

10. At the Probation Revocation Hearing on May 25, 2017, GS admitted all of the probation violations and the Court entered its Judgment for Revocation. Thereupon, Judge Sippel indicated a willingness and desire to conduct a hearing to determine ownership and entitlement to the Seized Assets, expressed that he would keep the matter open while the Trustee served the parties in the Adversary, and would set a further hearing upon request of the Trustee. Judge Sippel also indicated on the record that he would order the Probation Office to turn over the Seized Assets to the United States Attorney's Office.

11. The following day, May 26, 2017, consistent with the Court's oral statements, Judge Sippel entered an Order instructing the Probation Office to turn over the Seized Assets to the United States Attorney and mandating that the Seized Assets be held pending a further determination as to the above-named parties' respective interests in and to the Seized Assets.

12. Pursuant to 28 U.S.C. § 157, a district court may provide that cases under the Bankruptcy Code, and proceedings arising under the Bankruptcy Code, or arising in or related a cases under the Bankruptcy Code, shall be referred to the bankruptcy judges for that district. See 28 U.S.C. § 157(a). Further, bankruptcy judges may hear and determine cases under the Bankruptcy Code and core proceedings arising under or in bankruptcy cases. See 28 U.S.C. § 157(b).

13. In some cases, however, a district court should withdraw the reference of a proceeding originally filed in a bankruptcy court so that it can adjudicate the matter itself. Section 157 of title 28 of the United States Code provides the statutory basis for this "withdrawal of the reference". See generally 11 U.S.C. § 157(d). Withdrawal of the reference is mandatory if the "resolution of the proceeding requires consideration of both title 11 and other laws of the United States regulating organizations or activities affecting interstate commerce." See id. In contrast, withdrawal of the reference is permissive or discretionary upon motion "for cause shown". See id. (stating that the reference "may" be withdrawn for cause shown). Trustee believes that cause exists to grant permissive withdrawal of the reference in this Adversary.

14. Though requests for withdrawal of the reference typically arise in connection with "Stern" cases, non-core proceedings and/or requests for jury trials, "cause" is not limited to those narrow situations. Additional factors to be considered in determining whether cause exists to withdraw the reference include judicial economy and the expertise of the court. In re Constant, 12 F.3d 1105 (9th Cir. 1993).

15. The District Court and Judge Sippel are well versed in all matters involving GS's criminal proceeding, conviction, and probation violations, including many of the facts and circumstances related to the Seized Assets and the Remaining Assets.

16. Trying the Adversary in District Court before Judge Sippel avoids duplicity of effort in that many of the facts asserted in the Adversary Complaint previously have been presented to Judge Sippel in the criminal/probation hearings. Consequently, Judge Sippel is already up to speed and familiar with this matter so as to address any pre-trial and discovery issues and would be able to provide final orders to expedite the proceedings which have lingered for a long period of time.

17. Moreover, the Seized Assets presently are in the possession of the United States Attorney at the Order of Judge Sippel, and any release of the Seized Assets would require the initiation of a proceeding before and the issuance of an order by Judge Sippel.

18. Trustee submits that Judge Sippel's familiarity with the facts and circumstances of this case promotes judicial economy, avoids duplication of efforts, and represents sufficient cause to justify withdrawing the reference in the Adversary to the District Court, as well as the appointment of Judge Sippel as the presiding judge in the case.

WHEREFORE, Trustee respectfully requests that the reference be withdrawn in this Adversary and that this Court grant such other and further relief as may be just and proper.

Respectfully Submitted,
SUMMERS COMPTON WELLS LLC

Date: May 31, 2017

By: /s/ David A. Sosne
David A. Sosne #28365MO
Brian J. LaFlamme, #49776MO
8909 Ladue Road
St. Louis, MO 63124
(314) 991-4999/(314) 991-2413 Fax
dastrustee@summerscomptonwells.com
trusteeatty@summerscomptonwells.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on May 31, 2017 via electronic filing in the CM/ECF system of the United States Bankruptcy Court for the Eastern District of Missouri to the parties requesting service by electronic filing. I hereby also certify that a copy of the foregoing was served on May 31, 2017 via United States Mail, first class postage prepaid to those individuals and entities not requesting service by electronic filing. The individuals and entities being served electronically or by mail are:

United States Department of Justice
U.S. Trustee's Office
111 S. Tenth Street, Ste. 6353
St. Louis, MO 63102

Robert E. Eggmann
Carmody MacDonald P.C.
120 South Central Avenue, Suite 1800
Clayton, MO 63105

Gary and Sherry Salant
25 Saybridge Manor Court
Lake Saint Louis, MO 63367

Dollie Salant
1 New Ballas Place, Apt 132
St. Louis, MO 63146-8709

John Nouhon
121 E. Washington Avenue, Unit L1
St. Louis, MO 63122

Lindsey Salant
1465 Heritage Landing Apt 111
St. Charles, MO 63303

Lauren Salant
6371 Georgetown Court
Colorado Springs, CO 80919

Lauren Salant
9 ½ Elk Path
Manitou Springs, CO 80829

Joshua M. Jones
Assistant United States Attorney
111 South 10th Street, 20th Floor
St. Louis, Missouri 63102

Date: May 31, 2017

/s/ Christina Hauck